

Subpart 15.4—Contract Pricing**15.400 Scope of subpart.**

This subpart prescribes the cost and price negotiation policies and procedures for pricing negotiated prime contracts (including subcontracts) and contract modifications, including modifications to contracts awarded by sealed bidding.

15.401 Definitions.

As used in this subpart—

Price means cost plus any fee or profit applicable to the contract type.

Subcontract (except as used in 15.407-2) also includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor or a subcontractor (10 U.S.C. 2306a(h)(2) and 41 U.S.C. 254b(h)(2)).

[62 FR 51230, Sept. 30, 1997, as amended at 66 FR 2129, Jan. 10, 2001; 66 FR 65369, Dec. 18, 2001]

15.402 Pricing policy.

Contracting officers shall—

(a) Purchase supplies and services from responsible sources at fair and reasonable prices. In establishing the reasonableness of the offered prices, the contracting officer—

(1) Shall obtain certified cost or pricing data when required by 15.403-4, along with data other than certified cost or pricing data as necessary to establish a fair and reasonable price; or

(2) When certified cost or pricing data are not required by 15.403-4, shall obtain data other than certified cost or pricing data as necessary to establish a fair and reasonable price, generally using the following order of preference in determining the type of data required:

(i) No additional data from the offeror, if the price is based on adequate price competition, except as provided by 15.403-3(b).

(ii) Data other than certified cost or pricing data such as—

(A) Data related to prices (*e.g.*, established catalog or market prices, sales to non-governmental and governmental entities), relying first on data available within the Government; second, on data obtained from sources other than the offeror; and, if necessary, on data obtained from the offeror. When

obtaining data from the offeror is necessary, unless an exception under 15.403-1(b)(1) or (2) applies, such data submitted by the offeror shall include, at a minimum, appropriate data on the prices at which the same or similar items have been sold previously, adequate for evaluating the reasonableness of the price.

(B) Cost data to the extent necessary for the contracting officer to determine a fair and reasonable price.

(3) Obtain the type and quantity of data necessary to establish a fair and reasonable price, but not more data than is necessary. Requesting unnecessary data can lead to increased proposal preparation costs, generally extend acquisition lead time, and consume additional contractor and Government resources. Use techniques such as, but not limited to, price analysis, cost analysis, and/or cost realism analysis to establish a fair and reasonable price. If a fair and reasonable price cannot be established by the contracting officer from the analyses of the data obtained or submitted to date, the contracting officer shall require the submission of additional data sufficient for the contracting officer to support the determination of the fair and reasonable price.

(b) Price each contract separately and independently and not—

(1) Use proposed price reductions under other contracts as an evaluation factor; or

(2) Consider losses or profits realized or anticipated under other contracts.

(c) Not include in a contract price any amount for a specified contingency to the extent that the contract provides for a price adjustment based upon the occurrence of that contingency.

[62 FR 51230, Sept. 30, 1997, as amended at 66 FR 2129, Jan. 10, 2001; 75 FR 53142, Aug. 30, 2010; 77 FR 204, Jan. 3, 2012]

15.403 Obtaining certified cost or pricing data.**15.403-1 Prohibition on obtaining certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. 254b).**

(a) Certified cost or pricing data shall not be obtained for acquisitions at or below the simplified acquisition threshold.